ANDOVER BOARD OF HEALTH

Minutes February 13, 2012, 6:00 P.M. First Floor Conference Room 36 Bartlet Street

The Board of Health Meeting was called to order at 6:01 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Approval of Minutes

• December 12, 2011

Motion by Ms. Martin, seconded by Ms. Kellman to approve the Minutes of the Board of Health Meeting of December 12, 2011, with the following correction:

• On page 2, under • Food Service Matters ° Contract Inspectors – Change the end of the seventh sentence from ... "some of the problems." to ... "some of the expenses."

Unanimous approval.

• January 9, 2012

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Minutes of the Board of Health Meeting on January 9, 2012. Unanimous approval.

• 6:00 p.m. – Eva Xu for Teatone, Show Cause Hearing (Continued) – Eva Xu was present. Ms. Martin stated that the monthly reports had not been done as scheduled. Ms.

II. Appointments & Hearings

Xu stated that her Private Inspector, Michelle Cramm, had done two inspections on 1/26/2012 and 2/11/2012, but they were never delivered to the Health Division. She supplied the Board with the two inspections reports. ¹ Ms. Xu told the Board that she did not think the inspections were that bad. She is aware that there are still problems, but feels that her food temperatures are good and items are stored properly. Mr. Carbone stated that he had no food issues during his inspection on February 8, 2012, but his issue was with the cleanliness of the restaurant. Ms. Xu stated that she made up a daily cleaning checklist in English as well as in Chinese. ² Mr. Carbone asked if Ms. Cramm has seen the checklist and she replied that she had not. Mr. Carbone suggested Ms. Xu have Ms. Cramm take a look at the list and help her to make the checklist very specific.

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He stressed how important it was for Ms. Xu to utilize Ms. Cramm's knowledge and help

¹ The missing Inspection Reports have been added to the Agenda Packet after page 13 and include the Inspection Report and comments for inspections done on 1/26/2012 and 2/11/2012.

² The cleaning lists written in English and Chinese have been added to the Packet after the Inspection Reports noted above.

so that the restaurant can be cleaner. Ms. Martin stated that she would continue to recommend monthly inspections because the Board has not yet seen three months in a row without critical violations.

Motion by Ms. Martin, seconded by Dr. Miller to continue the Show Cause Hearing for one month with the requirement that Ms. Xu have a written plan and daily checklist documenting that things are being monitored, and have Michele Cramm, Ms. Xu's Private Inspector, perform a private inspection before the next Board of Health Meeting.

Ms. Kellman asked to comment and stated to Ms. Xu that if she does not think a checklist is practical, then it will not be practical. Part of the checklist has to be a plan to succeed, and a way to figure out how to make the plan practical. This plan has to happen, it is not theoretical. Ms. Xu stated that she would make sure the plan will happen and she will make the checklist and focus on the more critical areas such as floors, shelves, and three-bay sinks. Ms. Kellman informed Ms. Xu that there are restaurants that make this happen and have been very successful. Ms. Martin stated that Ms. Cramm had worked with checklists with other restaurants also, so she should utilize her expertise.

After discussion, Ms. Martin asked if all were in favor of continuing the Show Cause Hearing for one month with a written plan to be developed and presented to the Board, and to have a private inspection before the next regularly scheduled Board of Health Meeting on March 12, 2012.

Ms. Martin, Aye, Dr. Miller, Aye, Ms. Kellman, Aye. Unanimous approval.

• 6:15 p.m. – Sandy Kiu for Peking Garden, Show Cause Hearing (Continued) – Ms. Kiu was present as well as her daughter Shirley. Mr. Carbone stated that he arranged a meeting with the Private Contractor in December to demonstrate how we do our inspections. There were a couple of issues during the inspection such as an empty hand soap dispenser, but the temperatures and food handling was fine. A second inspection was also done recently, and the atmosphere was different from the past, and Ms. Kiu stated that outstanding issues were taken seriously by her staff. Ms. Kiu made some staff changes and now things are better. Mr. Carbone recommended that the monthly inspections continue for another three months.

Motion by Ms. Martin, seconded by Ms. Kellman to continue the Show Cause Hearing for three months with the requirement that Ms. Kiu continue with the monthly private inspections. Unanimous approval.

• 6:20 p.m. – Attorney Andrew Caffrey for 49 & 51R School Street; Appeal of Orders - Attorney Caffrey explained to the Board that the homeowners and the Archdiocese are still working on an agreement to connect water to these two addresses. Mr. Carbone stated that a definite date is now needed because the homeowners cannot continue to use the neighbors' water through hoses. The Board decided to require specific dates and a timeline to get some commitments to get a new waterline connected.

Motion by Ms. Martin seconded by Ms. Kellman to continue the Condemnation Hearing to the next scheduled Board of Health Meeting on March 12, 2012 at which time the Board expects that a written plan will be submitted on March 6, 2012, by 3 p.m. to the Health Division outlining the plan of installation and that a contract would be engaged to perform the work. Specifically:

- 1. By March 6, 2012, at 3:00 PM, the property owners shall provide a written compliance plan for the installation of permanent water services to their homes. Said plan shall include a timeline with key construction dates such as when ground will be broken, installation will be complete, and water service sanitizing and testing will be done.
- 2. As part of this compliance plan, signed construction documents with contractors and suppliers shall be provided.
- 3. If there is a failure to meet these requirements, the home owners should be prepared to attend a Condemnation hearing at the March 12, 2012 meeting.

Unanimous approval.

• 6:25 p.m. – Susan Odle for 38 Michael Way – Appeal of Condemnation Order (Continued) – Mr. Carbone requested that the Board uphold his Condemnation ORDER since Ms. Odle has had ample time to appear before the Board for an Appeal and she no longer has Bankruptcy protection under the law.

Motion by Ms. Martin, seconded by Dr. Miller, to uphold Mr. Carbone's Condemnation ORDER. Unanimous approval.

• 6:30 p.m. – Gregory Weich for 151 Hidden Road; Request for LUA Approval Amendment – Mr. Carbone explained to the Board that there was an approval for an LUA from 2000 that the homeowner is seeking an amendment to because of extenuating circumstances. The previous owner had a failed septic system and was allowed to fix the system with a requirement to connect to sewer when sewer became available. In 2006 sewer became available, but Mr. Weich was unable to connect because of elevation problems between the sewer stub and the pipe leaving the house. Mr. Carbone found that the sewer was never installed and in December of 2011, sent Mr. Weich a letter informing him of the issue. Mr. Weich wanted to amend the LUA to state that he does not need to abandon a perfectly good septic system unless it goes into failure. Mr. Carbone recommended that the Board amend the LUA with conditions.

Motion by Ms. Martin, seconded by Dr. Miller to approve the amendment to the LUA approval by allowing the continued use of the septic system instead of requiring a sewer connection at 151 Hidden Road with the following conditions:

- 1. The septic tank must be pumped every two years.
- 2. With the exception of the repair of a broken pipe, no other repair work shall be allowed on the system; any repair needed or if the system is found to in a state of failure, shall require a connection to the available municipal sewer system.

Unanimous approval.

6:35 p.m. – LUA for 81 Bellevue Road – Sieve Analysis in lieu of Perc test; reduction of 100' setback to wetlands; SAS 5' to front lot line – Present were Jim McDowell and Gary Litchfield. Mr. McDowell stated that he spoke with Claire Golden from Mass DEP

and she stated that they would need an LUA from the Town of Andover before they can go to the DEP. There were some things that needed to be added to the plans and the cesspool in the back of the house would be crushed and filled in place.

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the leaching system to be 62' from a wetland adjacent to a tributary to a water supply, where 100' is required, the LUA to allow the SAS to be 5' from the front property line where 10' is required, and the LUA to allow the use of a sieve analysis in lieu of a percolation test, with a requirement that the plans be revised to show the retaining wall with the elevations and the request for a sieve analysis in lieu of a percolation test. Specifically:

- 1. Variance of 310 CMR 15.211(1), to allow the soil absorption system (SAS) to be 62' from a wetland bordering a surface water supply or tributary thereto, where 100' is required.
- 2. Local Upgrade Approval (LUA) of 310 CMR 15.211(1) to allow the SAS to be 5' from the front property line, 10' required.
- 3. LUA of 310 CMR 15.104 to allow the use of a sieve analysis in lieu of percolation testing.

Said approvals are contingent upon the filing of revised system design plans reflecting the following:

- A. The proposed retaining wall between tank and foundation must be shown on the plan view.
- *B.* The top of the wall elevation must be added to the plans.
- C. The request for approval of the sieve analysis in lieu of a percolation test must be added to sheet 1 with the other variance/LUA requests.

Unanimous approval.

III. Discussion

- 2013 Budget Mr. Carbone stated that the bottom line was that the Town Manager's recommended budget is \$7,000 shorter than what was requested by the Community Development and Planning Department. The \$7,000 is needed to help pay for one day a week secretarial help, and the Town Manager will work with the Finance Department to try to get that money. Mr. Carbone and other Directors from the Community Development and Planning Department will be appearing before the Finance Committee on Wednesday, February 29, 2012 to discuss this issue.
- 116 Osgood St., Susan Odle Property (Not on Agenda) Mr. Carbone informed the Board that he issued an ORDER to Ms. Odle on Friday. He met with Town Counsel and he agreed that Mr. Carbone should issue the ORDER. This is a large house with several sheds and outbuildings. She refuses to accept any of the Certified Mail Mr. Carbone sends out, but letters are also sent out via regular mail, so Mr. Carbone knows she is receiving the letters. Ms. Odle says she is cleaning, but it looks like the trash bags are just being moved to the back of the property. There are violations of the Health nuisance law, because there is evidence that solid waste is being disposed of in those bags and she has failed to clean up the property as ordered. The Board planned to enter into Executive Session after the Board of Health Meeting to further discuss this issue.

IV. Old Business

• N/A

V. <u>Definitive Subdivision Plans</u>

• N/A

VI. Plan Review

N/A

VII. Staff Reports

A. Director's Reports:

• Intern Kristin Brosofsky Introduction – Ms. Brosofsky informed the Board that she had been doing some background on her research. She has checked several communities such as Los Angeles, New York, Hartford and Stanford Connecticut. She is putting together a list of the pros and cons of using a rating system for Food Establishments. She has met with some Health Directors in the area and is planning a meeting with them on March 6, 2012, so she will have an update for the Board at the next Board of Health Meeting on Monday, March 12, 2012.

• Important Dates:

- February 23, 2012 @ 8 a.m. MHOA/DEP Seminar in Wilmington
- o March 12, 2012 @ 6 p.m. Board of Health Meeting
- B. **Nurses' Reports for January, 2012** The Nurses' Reports for January, 2012, were for informational purposes only.
- C. **Inspectors' Reports for January, 2012** The Inspectors' Reports for January, 2012 were for informational purposes only.

VIII. Board Member Reports

• N/A

Motion by Ms. Martin, seconded by Dr. Miller to adjourn to Executive Session at 7:22 p.m. in order to discuss potential litigation. Roll Call vote to enter into Executive Session: Dr. Miller, Aye; Ms. Kellman, Aye; and Ms. Martin, Aye.

The Board returned from Executive Session at 7:31 p.m.

IX. Adjournment

Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 7:31 p.m. Unanimous approval.